

### **REMARKS**

Claims 1-38 are rejected in the present Office Action. In this response, claims 1, 7, 14, 15, 18, 19, 21, 22, 25, 27, 28, 33, 35, 36, and 38 are amended, and claims 20 and 26 are canceled without prejudice. Accordingly, claims 1-19, 21-25, and 27-38 remain pending in the present application. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and reasons.

As a preliminary matter, claims 19, 33, 35, and 38 are amended to correct and/or improve typographical error, grammar, or antecedent basis.

#### **Claim objections**

In Section 1 of the Office Action, claim 7 is objected to for failing to further limit the subject matter of a previous claim. Claim 7 is amended to now depend from claim 19.

In Section 3 of the Office Action, claim 18 is objected to for informalities relating to the word “act.” Each of claims 14, 15, 18, 21, 22, 27, 28, and 36 is amended to delete instances of the word “act.”

In Section 4 of the Office Action, claim 25 is objected to for a typographical error and use of the term “may be.” Claim 25 is amended to change “in” in line 2 to “is” and “may be” to “is.”

In Section 5 of the Office Action, claim 26 is objected as being unclear how minimum is a minimum level of service. Claim 26 is canceled without prejudice.

Accordingly, Applicant respectfully submits that claim objections have been overcome.

**Rejection of claims 1, 2, 14, 18, 19-22, 23, 35, and 38**

In Section 8 of the Office Action, claims 1, 2, 14, 18, 19-22, 23, 35, and 38 are rejected under 35 USC § 103(a) as being unpatentable over U.S. Published Application No. 2005/0213541 (Jung) in view of U.S. Published Application No. 2006/0194582 (Cooper).

Claim 1 is amended to recite, in part, “user equipment positioned in a second cell” and “in response to the user message, initiating the multicast service in the first cell, wherein the first cell is listed in the list of one or more neighbouring cells and the selection of the first cell to initiate the multicast service is not by the user equipment.” Support is provided, for example, at Paragraph 0041. Claim 23 recites, in part, that “user equipment is positioned in a first cell” and “receiving a network message generated responsive to the user message, wherein the network message indicates a new transmission of the multicast service by a second base station in a second cell; wherein the second cell is indicated in the user message.” Claim 38 recites, in part, “receiving a user message transmitted by the user equipment positioned in the first cell; and in response to the user message, initiating the multicast service in the group of cells neighbouring the first cell.”

The Office Action states that modification of Jung to include “transmitting the user message by UE disclosed by Cooper” discloses all elements of each of claims 1, 23, and 38. Applicant respectfully disagrees. Jung discloses providing a MBMS service in the *same* cell in which the terminal has moved into if the cell is in the MBMS service area. Otherwise “when a specific terminal is moved into the cell, if the SRNC determines that the cell is not the MBMS service area of the MBMS service, the SRNC . . . does not provide the MBMS service to the terminal or provides a point-to-point service.” See Paragraphs 0077-0078 and 0085-0086. In contrast, each of claims 1, 23, and 38 recites the user equipment being positioned in one cell and the multicast service being provided in (at least) another cell.

Moreover, with respect to claims 1 and 23, selection of a cell in which to initiate multicast service is triggered by the user equipment in each of Jung and Cooper. In Jung, it is the

terminal moving into a particular cell that initiates MBMS service in that cell. See Paragraphs 0077-0078 and 0085-0086. In Cooper, it is the user equipment that determines the handover cell:

At step 104, the active network looks up cell information for preferred network and signals neighbor cell information to the User Equipment. At step 105, the User Equipment searches for cell availability, determines cell and network and signals handover to [a] specific cell. Finally, at step 106, handover to new network is implemented. Paragraph 0046.

In contrast, claim 1 recites “selection of the first cell to initiate the multicast service is not by the user equipment.” Claim 23 recites “receiving a network message generated responsive to the user message, wherein the network message indicates a new transmission of the multicast service by a second base station in a second cell; wherein the second cell is indicated in the user message.”

With respect to claim 38, Jung nor Cooper discloses “initiating the multicast service in the *group of cells neighbouring the first cell*” (emphasis added) where the user equipment is located, as recited in claim 38. Jung discloses initiating MBMS service at most in the same cell as the user equipment. Cooper similarly discloses initiating handover with a “specific cell.”

Jung fails to disclose initiating a multicast service in a cell if a first count for the cell is not zero and initiating the multicast service in a cell if a second count for the cell is not zero, as recited in claim 19. Instead, Jung initiates “one session of the MBMS service from the core network, the RNC start[ing] transmitting data by using the set radio bearer, and when the session stop is received from the CN, the RNC release the previously set radio bearer.” Paragraph 0030. Cooper does not disclose counting user messages having the cell included in the list of cells.

Claim 20 is canceled without prejudice.

Claim 35 recites, in part, “the user request message includes a request for a multicast service and the first list of received neighbouring cells.”

Jung discloses the SRNC receiving from the CN a UE linking message that “includes neighboring cell MBMS service area information with respect to MBMS services for which a specific terminal has joined and MBMS service function supportable/non-supportable information of the neighboring cell with respect to every MBMS service.” Paragraph 0077. Jung’s UE linking message does not include a “request for a multicast service” nor is the UE linking message sent from the user equipment, as recited in claim 35.

In Cooper, the message sent from the user equipment to the network consists of specifying a particular cell for handover. “At step 105, the User Equipment . . . determines cell and network and signals handover to specific cell.” Paragraph 0046. Cooper similarly fails to disclose a user message that includes a “request for a multicast service,” as required by claim 35.

Accordingly, Applicant respectfully submits that each of claims 1, 19, 23, 35, and 38 is allowable over Jung and Cooper, alone or in combination. For at least the same reasons discussed above, claims which depend from any of claims 1, 19, 23, 35, and 38 are also believed to be allowable over Jung and Cooper, alone or in combination.

**Rejection of claims 3-8, 9-13, 15-17, 24-30, 36, and 37**

In Section 9 of the Office Action, claims 3-8, 9-13, 15-17, 24-30, 36, and 37 are rejected under 35 USC § 103(a) as being unpatentable over Jung in view of Cooper and further in view of 3GPP TS 25.346 V6.0.0 (3GPP).

Applicant respectfully submits that each of claims 3-8, 9-13, 15-17, 24-30, 36, and 37, which depend from one of claims 1, 19, 23, or 35, is allowable over Jung, Cooper, and 3GPP, alone or in combination, for at least the same reasons as discussed above for claims 1, 19, 23, and 35.

**Rejection of claims 31-32**

In Section 10 of the Office Action, claims 31-32 are rejected under 35 USC § 103(a) as being unpatentable over Jung in view of U.S. Patent No. 5,724,662 (Goldberg).

The Office Action states that while Jung does not mention third cells that are not neighbors of the first cell nor accumulating data representing a count of user equipment determined to be positioned in one of the second cells, that Goldberg does at page 11, lines 35-40. Applicant respectfully disagrees.

Goldberg at page 11, lines 35-40 (i.e., Goldberg's claim 1) discloses a set of base station transmitters for "dynamically assigned simulcast areas," in which certain base station transmitters are dominant to a portable transceiver. For each of the sets of groups to transmit, the transmission is provided by the "base station transmitters of the set [that] are dominant." For a given portable transceiver, its dominant base station transmitters are all located in neighboring cells of the cell in which the portable transceiver is located. For example, dominant transmitters for transceiver A are in cells 2, 3, and 7. See Figure 5 and col. 8, lines 15-67. Thus, Goldberg's second cells and third cells are neighbors of the first cell. Claim 31 recites, in part, that "third cells are not neighbours of the first cell."

Accordingly, Applicant respectfully submits that claims 31 and 32 are allowable over Jung and Goldberg, alone or in combination.

#### **Rejection of claims 33-34**

In Section 11 of the Office Action, claims 33-34 are rejected under 35 USC § 103(a) as being unpatentable over 3GPP in view of Cooper.

Cooper teaches the user equipment determining a single "specific cell" for handover. This specific cell is provided by the user equipment to the network. Paragraph 0046. In contrast, claim 33 recites, in part, "signaling, on the uplink, a second list including an indication of acceptable *cells* from the first list." (emphasis added). The Office Action states that this element is missing in 3GPP.

Moreover, claim 34 recites "signaling, on the uplink, a third list including a signal measurement for each of the acceptable cells from the second list." Cooper does not disclose or

teach the user equipment sending a subsequent message relating to the “specific cell,” or such subsequent message containing “signal measurement [information] for each of the acceptable cells.” 3GPP discloses “[t]he UE determin[ing] the neighbouring cell suitable for selective combining based on threshold (e.g. measured CPICH Ec/No) and the presence of MBMS NEIGHBOURING CELL INFORMATION of that neighbour cell.” Page 21. However, again the processing performed by the user equipment is regarding a single cell and 3GPP does not appear to disclose uplinking by the user equipment of “a third list including a signal measurement for each of the acceptable cells from the second list.”

Accordingly, Applicant respectfully submits that claims 33 and 34 are allowable over 3GPP and Cooper, alone or in combination.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. Applicant's silence during prosecution should not be construed to be an admission. Applicant reserves the right to address points raised earlier in prosecution at a later time. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **Docket No. 562492000100**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: February 7, 2008

Respectfully submitted,

By           /Katherine D. Lee/          

Katherine D. Lee

Registration No.: 44,865

MORRISON & FOERSTER LLP

425 Market Street

San Francisco, California 94105-2482

Tel: (415) 268-6983